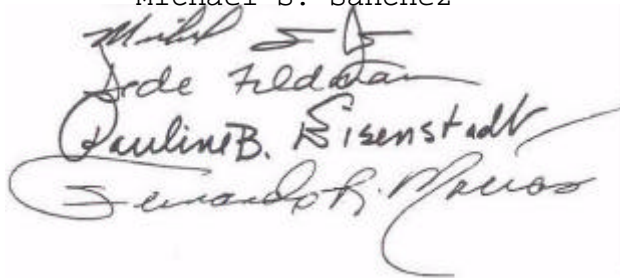


SENATE BILL 208

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Michael S. Sanchez



AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE RIPARIAN ENHANCEMENT
ACT; CREATING A TASK FORCE; PROVIDING POWERS AND DUTIES;
CREATING A FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Riparian Enhancement Act".

Section 2. PURPOSE OF ACT.--The purpose of the Riparian
Enhancement Act is to create a small grant and technical
assistance program designed to maintain and recover healthy
riparian areas upon which both nature and mankind depend.

Section 3. DEFINITIONS.--As used in the Riparian
Enhancement Act:

A. "appropriate methods" means practices to restore
riparian and associated uplands that are accepted by the best
available science;

B. "associated uplands" means those lands of a
watershed that are critical to the functioning and protection
of a riparian area;

1 C. "commission" means the soil and water
2 conservation commission;

3 D. "department" means the department of
4 environment;

5 E. "districts" means the soil and water
6 conservation districts;

7 F. "enhancement" means improvement of watershed and
8 riparian area components and characteristics, with the goal of
9 augmenting the effectiveness of existing riparian area
10 ecological functions;

11 G. "native plants" means all species of plants
12 indigenous to New Mexico;

13 H. "riparian area" means a zone of transition from
14 an aquatic ecosystem to a terrestrial ecosystem, dependent upon
15 surface or subsurface water, that reveals through the zone's
16 existing or potential soil and vegetation complex the influence
17 of surface or subsurface water;

18 I. "task force" means the riparian enhancement task
19 force; and

20 J. "watershed" means the entire land areas drained
21 by a stream or system of connected streams resulting in all
22 stream flow originating from the area being discharged through
23 a single outlet.

24 Section 4. TASK FORCE CREATED--MEMBERSHIP--TERMS--
25 REIMBURSEMENT--MEETING--STAFF.--

A. The "riparian enhancement task force" is
created. The task force shall approve grant applications for
watershed and riparian enhancement projects and shall advise
the commission on issues related to riparian restoration and

1 enhancement. The task force shall consist of twelve members as
2 follows:

3 (1) the director of the department of game and
4 fish or his designee;

5 (2) the state engineer or his designee;

6 (3) the secretary of environment or his
7 designee;

8 (4) the director of the New Mexico department
9 of agriculture or his designee;

10 (5) the commissioner of public lands or his
11 designee; and

12 (6) seven public members with appropriate
13 geographical representation, all of whom shall have experience
14 or training with riparian projects, appointed by the commission
15 as follows:

16 (a) a private landowner whose primary
17 source of income is farming or ranching;

18 (b) a representative of a New Mexico
19 soil and water conservation district;

20 (c) a representative of the New Mexico
21 riparian council;

22 (d) a representative of a tribal
23 environmental office;

24 (e) a representative of an environmental
25 organization;

(f) a representative of municipal
government; and

(g) a representative that is a
university hydrologist or biologist.

1 B. Public members shall be appointed for terms of
2 four years; provided that initial terms shall be chosen by lot
3 so that two members serve for terms of four years, two members
4 serve for terms of three years, two members serve for terms of
5 two years and one member serves for a term of one year. A
6 vacancy on the task force shall be filled by appointment by the
7 commission for the unexpired term. Members shall serve until
8 their successors have been appointed and qualified.

9 C. The task force shall elect a chairman and other
10 officers it deems necessary.

11 D. The public members may receive per diem and
12 mileage as provided in the Per Diem and Mileage Act, but shall
13 receive no other compensation, perquisite or allowance.

14 E. The task force shall meet at least semi-annually
15 and as needed. Meetings shall be called by the chairman of the
16 task force and may be called upon the request of three or more
17 members.

18 Section 5. EXPERT ADVICE--AGENCY CORPORATION.--

19 A. The task force may seek the advice of a state or
20 federal agency, environmental organizations and others it deems
21 necessary to carry out its duties pursuant to the Riparian
22 Enhancement Act.

23 B. State agencies may provide assistance as
24 requested to develop and implement watershed and riparian
25 enhancement projects.

 Section 6. TECHNICAL COMMITTEES.--The task force may
establish technical committees as deemed necessary to aid and
advise the task force. The task force shall appoint the
members to a committee in a manner that will ensure broad

1 representation of public interests, Native American interests
2 and scientific viewpoints. The chairman of the task force
3 shall serve as an ex-officio member of each committee.

4 Section 6. TASK FORCE--DEPARTMENT--POWERS AND DUTIES.--

5 A. The task force shall:

6 (1) approve grant applications for watershed
7 and riparian enhancement projects;

8 (2) adopt guidelines, criteria and standards
9 for watershed and riparian enhancement projects;

10 (3) make recommendations to the department,
11 the districts and the commission on matters related to
12 watershed and riparian enhancement;

13 (4) encourage the use of volunteers in the
14 implementation of watershed and riparian enhancement projects;

15 (5) assign priority to projects it approves
16 that involve cooperative efforts and emphasize using
17 appropriate methods for watershed and riparian enhancement;

18 (6) identify and report gaps in research and
19 available information about watershed and riparian management;

20 (7) cooperate with appropriate federal
21 entities to identify the needs and interests of the state to
22 ensure that federal plans and project schedules relating to
23 watershed and riparian enhancement incorporate the state's
24 priorities for watershed and riparian enhancement to the
25 fullest extent practicable; and

(8) solicit and accept gifts, grants and
donations to carry out the provisions of the Riparian
Enhancement Act.

B. The department shall:

- 1 (1) provide support staff for the task force;
- 2 (2) oversee watershed and riparian enhancement
- 3 projects approved by the task force;
- 4 (3) provide technical advice and assistance to
- 5 watershed and riparian enhancement projects;
- 6 (4) request any expertise required for a
- 7 project from the appropriate state agency;
- 8 (5) provide guidance on educational and
- 9 informational materials that promote public awareness of issues
- 10 involving watershed and riparian health and management;
- 11 (6) make grants to implement approved
- 12 projects; and
- 13 (7) annually report on the design, techniques
- 14 and results of funded projects.
- 15 C. The districts shall:
- 16 (1) assist landowners in developing and
- 17 implementing watershed and riparian enhancement projects and
- 18 coordinate the activities of persons, agencies and political
- 19 subdivisions that are developing local projects;
- 20 (2) encourage the use of appropriate methods
- 21 and native plants to enhance riparian areas and associated
- 22 uplands of the state's watershed;
- 23 (3) be responsible for monitoring the
- 24 projects' results for at least three years after completion;
- 25 and
- (4) assist the task force and department in
- carrying out their duties.

Section 8. RIPARIAN ENHANCEMENT PROGRAM--CRITERIA FOR
APPROVAL OF PROJECTS.--

1 A. The task force, in conjunction with the
2 districts and the department, shall conduct a watershed and
3 riparian enhancement program. The program shall include
4 providing education, research, technical assistance and funding
5 for watershed and riparian enhancement projects.

6 B. Any person, organization, landowner, rancher,
7 farmer, state agency, political subdivision of the state,
8 federal agency or tribal government may submit an application
9 for funding or a request for advice or assistance in developing
10 a watershed and riparian enhancement project.

11 C. The task force shall establish criteria for
12 grant applications and awards. Grant applications shall be
13 submitted in the form and manner prescribed by the task force.
14 Requests for advice or assistance and grant applications shall
15 be submitted through the districts or the department.

16 D. Within ninety days of a request, a district or
17 the department may provide the requested advice or assistance.
18 The districts shall review grant applications for projects
19 within their boundaries and forward eligible projects to the
20 task force within ninety days of receipt. The task force shall
21 approve or disapprove a grant application.

22 E. The task force shall approve grant applications
23 for those watershed and riparian enhancement projects that:

24 (1) are based on sound principles of watershed
25 and riparian management;

 (2) use enhancement methods most adapted to
the project locale; and that result in measurable improvement;
and

 (3) meet all federal, state or local

1 regulatory requirements, including state water plans
2 promulgated by the state engineer.

3 F. In addition to other requirements of the
4 Riparian Enhancement Act, the districts, the department or the
5 task force shall consider the following when approving projects
6 seeking technical assistance or funding:

7 (1) provisions satisfactory to the districts
8 for inspection and evaluation of the project that includes all
9 necessary agreements to allow the districts and any cooperating
10 agency providing staff services for the task force access to
11 the project area;

12 (2) provisions satisfactory to the task force
13 and the department for controlling the expenditure of an
14 accounting for any money granted for a project; and

15 (3) provisions for the continued maintenance
16 of restoration projects by the applicant for the time period
17 specified.

18 G. A watershed and riparian enhancement project may
19 use mechanical, biological, vegetative or structural methods,
20 including livestock grazing management systems; erosion
21 control; stream bank stabilization; forest, range or cropland
22 treatment; site-specific in-stream structures; and other
23 methods approved by the task force. Projects are not limited
24 to land treatments, but may include resource plans,
25 demonstration projects and outreach and educational materials
or projects that ultimately result in watershed and riparian
enhancement.

H. The task force may approve funding for a project
for the restoration of a riparian area or associated uplands

1 that is carried out in conjunction with a water storage
2 structure. The task force shall not approve funding for any
3 project that consists solely of a water storage structure.

4 Section 9. FUND CREATED--ADMINISTRATION.--The "riparian
5 enhancement fund" is created in the state treasury. The fund
6 consists of appropriations, gifts, grants, donations and
7 bequests. Money in the fund shall not revert at the end of any
8 fiscal year. The fund shall be administered by the department,
9 and money in the fund is appropriated to the department to
10 carry out the provisions of the Riparian Enhancement Act.

11 Section 10. APPROPRIATION.--Seven hundred fifty thousand
12 dollars (\$750,000) is appropriated from the general fund to the
13 riparian enhancement fund for expenditure in fiscal year 2000
14 and subsequent fiscal years to carry out the provisions of the
15 Riparian Enhancement Act; provided that no more than fifteen
16 percent of the appropriation shall be expended for
17 administration and per diem and mileage expenses of the
18 riparian enhancement task force. Any unexpended or
19 unencumbered balance remaining at the end of a fiscal year
20 shall not revert to the general fund.

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

SB 208/a

6 February 11, 1999

9 Mr. President:

11 Your **CONSERVATION COMMITTEE**, to whom has been referred

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15 has had it under consideration and reports same with
16 recommendation that it **DO PASS**, amended as follows:

18
19 1. On page 3, line 13, after "engineer" strike "or", insert
20 in lieu thereof a comma and after "designee" insert "or a
21 representative of the interstate stream commission".

22
23 2. On page 4, line 6, strike "environmental office" and
24 insert in lieu thereof "or pueblo government".

25
3. On page 5, line 17, after "of" insert "state
interests,".

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4. On page 5, lines 22 and 23, strike "watershed and" and after "riparian" insert "and associated upland".

5. On page 5, line 25, strike "watershed and" and after "riparian" insert "and associated upland".

6. On page 6, line 3, strike "watershed and", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

7. On page 6, line 5, strike "watershed and" and after "riparian" insert "and associated upland".

8. On page 6, line 7, after "efforts" insert "that do not impair New Mexico's ability to meet its obligations under interstate compacts and court decrees or utilize water apportioned to it under those compacts and decrees,".

9. On page 6, line 8, strike "watershed and", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

10. On page 6, line 10, strike "watershed and" and after "riparian" insert "and associated upland".

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11. On page 6, line 14, strike "watershed and", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

12. On page 6, line 15, strike "watershed and" and insert in lieu thereof "maintaining its ability to meet its obligations under interstate compacts and court decrees, for fully utilizing waters apportioned to it by those compacts and decrees, for protecting existing water rights, and for implementing", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

13. On page 6, line 22, strike "watershed and" and after "riparian" insert "and associated upland".

14. On page 6, line 25, strike "watershed and" and after "riparian" insert "and associated upland".

15. On page 7, line 8, after "report" insert "to the legislature".

16. On page 7, line 12, strike "watershed and" and after "riparian" insert "and associated upland".

17. On page 8, line 1, strike "watershed and".

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18. On page 8, line 2, after "riparian" insert "and associated upland".

19. On page 8, line 4, strike "watershed and" and after "riparian" insert "and associated upland".

20. On page 8, line 9, strike "watershed and" and after "riparian" insert "and associated upland".

21. On page 8, line 22, strike "watershed and" and after "riparian" insert "and associated upland".

22. On page 8, line 24, strike "watershed and" and after "riparian" insert "and associated upland".

23. On page 9, lines 4 and 5, strike "including state water plans promulgated by the state engineer" and insert in lieu thereof:

"maintain New Mexico's ability to meet its water delivery obligations under interstate compacts and court decrees, maintain New Mexico's ability to fully utilize the waters apportioned to it by interstate compacts and decrees, protect existing water rights, and that may be included in state water plans developed

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by or through the state engineer or the interstate stream
commission".

24. On page 9, line 21, strike "watershed and" and after
"riparian" insert "and associated upland".

25. On page 10, line 1, after the period insert "If a
project includes aerial application of herbicides, notification
must be made to adjacent landowners, and appropriate buffer zones
must be included to protect aquatic habitats.".

26. On page 10, line 4, strike "watershed and" and after
"riparian" insert "and associated upland".,

and thence referred to the **FINANCE COMMITTEE.**

Respectfully submitted,

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Fernando R. Macias, Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: Vernon, Rodarte

Absent: None

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